

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



May 19, 2004

**Agenda ID #3587**  
**Ratesetting**

TO: PARTIES OF RECORD IN APPLICATION 03-04-032

This is the draft decision of Administrative Law Judge (ALJ) Walker. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's Rules of Practice and Procedure (Rules). These rules are accessible on the Commission's Website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN  
Angela K. Minkin, Chief  
Administrative Law Judge

ANG:hkr

Attachment

Decision **DRAFT DECISION OF ALJ WALKER** (Mailed 5/19/2004)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Kathleen I. Johnson requesting to sell all stock of the Arrowhead Manor Water Company, Inc. and Rio Plaza Water Company, Inc. requesting to buy all stock in this water system located in Cedar Glen, San Bernardino County, California.

Application 03-04-032  
(Filed April 25, 2003)

**OPINION GRANTING MOTION TO DISMISS  
THIS APPLICATION WITHOUT PREJUDICE TO REFILE****1. Summary**

Arrowhead Manor Water Company, Inc. (Arrowhead), a privately owned water utility in Cedar Glen, California, serving approximately 500 customers, filed this application on April 25, 2003, seeking to sell and transfer ownership of the company to Rio Plaza Water Company, Inc. The Commission's Water Division now moves for dismissal of the application on grounds that Arrowhead is in receivership, with disposition of its assets subject to the direction of the San Bernardino County Superior Court. The motion to dismiss, which is unopposed, is granted, without prejudice to refile if circumstances so warrant.

**2. Background**

The Commission in Decision (D.) 02-07-009 on July 17, 2002, directed staff to petition the Superior Court for appointment of a receiver for Arrowhead. The order followed a showing by the Water Division that the utility was not adequately serving its customers, had essentially abandoned the water system, and had disregarded Commission regulations and orders.

Commission staff petitioned the Superior Court for appointment of a receiver on January 4, 2003, and the court granted the petition on May 7, 2003. John W. Richardson was named receiver for Arrowhead and was given authority to operate the utility, prepare the property for sale, and solicit bids for the transfer of ownership.

Arrowhead on April 25, 2003, filed this application seeking Commission authority to sell and transfer ownership of the company to Rio Plaza Water Company, Inc. The application was opposed by Commission staff, which noted that the property was subject to receivership proceedings in the Superior Court.

The assigned Administrative Law Judge (ALJ) on June 17, 2003, conducted a telephone status conference with the parties. By ALJ Ruling on June 20, 2003, Arrowhead was directed to confer with the court-appointed receiver and, among other things, to take the following action:

The Receiver will be invited to join in filing an amendment to the application in a manner that would make the Receiver responsible for going forward with this application if and when the Receiver determines that such action is appropriate. (ALJ Ruling, at 1.)

On October 24, 2003, Receiver Richardson notified the Commission that he could not support or sponsor Arrowhead's application. He stated that the Superior Court had directed him to prepare the water company for sale and to solicit offers from all prospective buyers, including but not limited to Rio Plaza Water Company, Inc.

In a report to the Superior Court for the period January 1—March 31, 2004, the receiver stated that he had prepared the Arrowhead property for sale, pursued various insurance claims, and released a request for qualifications (RFQ) to all parties that had an interest in acquiring the company. The time for response to the RFQ has been extended to mid-year 2004.

**3. Discussion**

It is clear that this application by Arrowhead is moot, in that the sale and transfer of ownership of this small water utility is in the hands of the receiver, subject to the direction and approval of the San Bernardino County Superior Court. The motion by the Water Division to dismiss this application is unopposed. Accordingly, we will dismiss the application and close this proceeding. We do so without prejudice to refiling should the parties deem that appropriate. When the property ultimately is transferred, the new owner will require the approval of this Commission and of the Department of Health Services in proceeding with public utility service.

In Resolution ALJ 176-3112 dated May 8, 2003, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that no hearings would be necessary. Our examination of the record persuades us that a public hearing is not necessary, nor is it necessary to alter the preliminary determinations.

**4. Comments on Draft Decision**

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were received on \_\_\_\_\_, and reply comments were received on \_\_\_\_\_.

**5. Assignment of Proceeding**

Michael R. Peevey is the Assigned Commissioner, and Glen Walker is the assigned ALJ in this proceeding.

**Findings of Fact**

1. The Commission in D.02-07-009 directed staff to petition the San Bernardino County Superior Court for appointment of a receiver for Arrowhead.

2. The Superior Court granted the petition and appointed a receiver for Arrowhead on May 7, 2003.

3. Arrowhead filed this application on April 25, 2003, seeking to sell and transfer ownership of the company to Rio Plaza Water Company, Inc.

4. Arrowhead on June 20, 2003, was directed to invite the receiver to join in its application.

5. The receiver on October 24, 2003, declined to support or sponsor Arrowhead's application.

6. The Commission's Water Division on March 22, 2004, moved for dismissal of this application.

### **Conclusions of Law**

1. Arrowhead's application is moot because sale and transfer of ownership of the company is in the hands of the receiver.

2. The Water Division's motion to dismiss this application is unopposed.

3. The motion to dismiss the application should be granted, without prejudice to refiling should events so warrant.

**O R D E R**

**IT IS ORDERED** that:

1. The motion of the Commission's Water Division to dismiss Application (A.) 03-04-032 is granted, without prejudice to refiling.
2. A.03-04-032 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.